

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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)	
In the Matter of)	GN Docket No. 17-83
)	
Accelerating Broadband Deployment)	
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COMMENTS OF THE CITY OF SAN JOSE, CALIFORNIA

**Mayor Sam Liccardo
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Dated: January 7, 2018

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COMMENTS OF THE CITY OF SAN JOSE, CALIFORNIA

The City of San Jose, California (“City” or “San Jose”) hereby respectfully submits its comments on certain important issues concerning, and being considered by, the Broadband Deployment Advisory Committee (“BDAC”).¹ More specifically, as the BDAC prepares to further consider recommendations by its Working Groups, San Jose addresses the following matters: (a) BDAC membership and process; (b) restrictions on fees and charges for use of the public rights of way; and (c) federal preemption of state and local requirements.

I. INTRODUCTION AND BACKGROUND

Represented by its Mayor and Chief Innovation Officer, the City has welcomed the opportunity to actively participate in the deliberations of the BDAC and its Working Groups. As the largest city in Silicon Valley, San Jose understands how inherently powerful technology can

¹ As the Commission knows, the Honorable Sam Liccardo, Mayor of San Jose, is a member of the BDAC, and, in addition, there has been active participation in the BDAC process by the City’s Chief Innovation Officer, Ms. Shireen Santosham. The City submits these Comments in this particular docket per instructions of the Commission’s staff and per FCC Public Notice, “FCC Announces the Third Meeting of the Broadband Deployment Advisory Committee,” DA 17-1070, released October 31, 2017.

be to drive economic growth and competitiveness. Broadband infrastructure is foundational to unlocking this economic potential and providing opportunities for San Jose's local communities and residents in terms of public safety, economic development, healthcare, entertainment, and education.

To that end, the City has launched a number of initiatives that demonstrate its open-arms approach to technological advancement. These include, among others, efforts to bring autonomous vehicles to the City and several experiments to bridge the digital divide and get connectivity to the community's low-income population.²

Consistent with these initiatives and cognizant of the key role that broadband plays in their success, the City recently released its Broadband and Digital Inclusion Strategy, which included recommendations to speed broadband deployment through streamlining City processes, allowing for companies to work with a single point of contact to deploy small cells, and creating incentives for providers to invest in underserved areas of the community through the dynamic pricing of City infrastructure assets. San Jose understands that working together with broadband providers is the only way it will be able to provide high quality service to its residents and bridge the digital divide.³ The City continues to actively look, consistent with its obligations as a steward of public assets, for ways to streamline its own processes.

² For additional details on these initiatives, see Statement of Shireen Santosham, Chief Innovation Officer, San Jose Mayor's Office of Technology and Innovation Before the House Subcommittee on Communications & Technology, "The Race To 5G and Its Potential to Revolutionize American Competitiveness," November 16, 2017, *available at* <https://energycommerce.house.gov/hearings/race-5g-potential-revolutionize-american-competitiveness/>.

³ San Jose is not alone in its approach to creating a more welcoming environment for the private sector to work with the City and to deploy networks more quickly. The City of Boston has adopted a program based on the following five principles, which are a good example for all cities, some of which have been suggested in BDAC deliberations to date: (1) standardized

At the same time, a piecemeal approach, where service providers can pick and choose where they service a city, has the unintended consequence of leaving more traditionally excluded neighborhoods to be serviced last (if they are serviced at all). To avoid such a result, San Jose is now working with service providers to build out all areas of the City through agreeing to batch processing of permits, network-level planning, and discounts on fees and rates based on digital inclusion provisions that benefit both the companies and the City residents. Bottom line: San Jose is contributing to helping expedite broadband deployment, not maintaining or erecting obstacles to that deployment, as some have unfairly suggested.

II. BDAC MEMBERSHIP AND PROCESS

The City supports the BDAC in concept. Commissioner Pai, in recommending the formation of the BDAC to draft a model code, stated that “its approach should be forward looking and fair, balancing the legitimate interests of municipalities with the ever-growing demands of the American public for better, faster and cheaper broadband.”⁴

However, it is no secret that there remain concerns about the tilted imbalance of the BDAC membership and the evenhandedness and transparency of the process of developing BDAC recommendations.⁵

San Jose remains concerned about the level of municipal representation on the BDAC, which currently stands at three members, and believes that there should be more municipal

license agreement; (2) cooperative design process; (3) multiple pricing models; (4) community communication; and (5) simple, online application system.

⁴ Remarks of Commissioner Ajit Pai At the CTIA Wireless Smart Cities Expo, Washington, D.C., November 2, 2016, at p. 2, *available at* https://apps.fcc.gov/edocs_public/attachmatch/DOC-342032A1.pdf.

⁵ Center for Public Integrity, August 11, 2017, “FCC packs broadband advisory group with big telecom firms, trade groups,” *available at* <https://www.publicintegrity.org/2017/08/11/21057/fcc-packs-broadband-advisory-group-big-telecom-firms-trade-groups>.

representation. The City is not alone in that concern. The National League of Cities, the National Association of Counties, and the United States Conference of Mayors, joined by 237 bipartisan mayors and other city and county officials across the country, have expressly requested the Chairman provide for “an appropriate level of local government representation on the [BDAC] ... so that local governments can have more input into both the BDAC’s and the Commission’s deliberation on matters... related to broadband deployment in the future.”⁶ Fourteen Members of Congress have also expressed their concerns “about local representation on the [BDAC] particularly in the context of the Commission’s ongoing wireless and wireline infrastructure proceedings.”⁷ Hopefully, the Chairman of the Commission will not turn a deaf ear to these concerns as the BDAC process moves forward.

The ability of municipal members to share draft reports and working documents with other municipal stakeholders has been restricted, while the same limitations did not apply on the industry side. Access by other members of the public to BDAC recommendations has also, until recently, been limited.

The City appreciates the recent expanded transparency of draft reports and recommendations on the BDAC website. Such pre-decision access is consistent with the Chairman’s commitment to prior public access to major FCC decisions. The BDAC and Commission also afforded additional time before pressing adoption and approval of all BDAC draft reports.

⁶ Letter, dated November 3, 2017, from Roy Charles Brooks, President, National Association of Counties, Matt Zone, President, National League of Cities and Mitch Landrieu, President, The U.S. Conference of Mayors, to Chairman Ajit Pai. (Attachment 1.)

⁷ Letter, dated November 7, 2017, from the Honorable Anna G. Eshoo and 13 other members of Congress to the Honorable Ajit Pai, Chairman (“Eshoo Letter”), at 1. (Attachment 2.)

Still, San Jose concurs with the recommendations in the Eshoo Letter to “allow for a fair and balanced perspective of all stakeholders both on and off the BDAC who are committed to accelerating broadband deployment.”⁸ The City expects that, going forward, internal BDAC procedures will ensure that the public and all interested stakeholders will have ample opportunity and time to comment on any BDAC proposals before they are used as the basis or justification for Commission actions.

III. TRANSPARENT, MARKET-BASED FEES AND CHARGES FOR USE OF PUBLIC ASSETS

Municipalities have a responsibility to their citizens and communities to ensure proper use of public assets, and that includes “fair and reasonable compensation” for access to and use of the public rights of way.⁹ The starting point should be transparent, market-based fees and charges for such access and use.

Below-market fees and rates charged to service providers for right of way access are essentially a public subsidy, without guarantees that these companies build out everywhere and lower prices to consumers.¹⁰ Allowing local governments to continue to charge rational, market-based rates and transparently price assets to incentivize buildout in traditionally underserved areas would be more productive.

If the industry would like to be charged public utility rates, it should have the responsibility to serve all consumers affordably. In other words, if the City is to give breaks to corporations on use of public assets, there needs to be assurance that the benefits granted go back

⁸ Id., at 2.

⁹ 47 U.S.C. §253(b).

¹⁰ See Mayor Sam Liccardo, Op-Ed, New York Times, “Why Does Verizon Care About Telephone Poles,” October 3, 2017. (Attachment 3.)

to the public in terms of lower prices coupled with access in traditionally excluded neighborhoods. This is only rational, fair and reasonable.

As noted above, the City has been working with service providers to build out areas of the community and has been willing to discount fees and rates based on digital inclusion provisions that benefit both the companies and City residents. The Commission should not, as a policy matter, strip cities of that flexibility.

IV. PROMOTE COLLABORATION, NOT PREEMPTION

In the City's experience, resolution of broadband deployment issues can and should be through a collaborative process that balances the interests and obligations of the municipality and its citizens with those of the service providers seeking access to public assets. On the local government level, cities should consider policies and processes that promote a level playing field and balance the business needs of providers with protection of the public interest. The BDAC and Commission should endorse a balanced approach to ensure that deployment is expedited while benefiting the public broadly.

The City strongly believes that on the federal preemption of local governments, either as a result of FCC regulations or new federal legislation, will likely have negative unintended consequences for the public. Certainly there are always ways to improve processes to speed broadband deployment. But cities and local governments alone are not the root cause of slow deployment – and preempting their authority will likely produce consequences that hurt consumers in the long run. Legislative or regulatory action that strips away local input over the

use of the public rights of way is fundamentally flawed, as it does not ensure that the benefits of broadband reach everyone.¹¹

Moreover, preemption disrupts the prospects for a collaborative atmosphere. For example, over 300 cities in California came out in opposition to SB649. Editorials and op-eds appeared in many of the major newspapers in the state opposing the legislation. Litigation challenges to preemption legislation in Texas and Ohio highlight how contentious preemption can be and the potential for litigation if the authority to displace state and local input is held out as a routine solution.¹²

Preemption should be a matter of last resort if the BDAC and Commission are committed to seeing equitable and safe deployment. In every case the FCC must balance competing statutory obligations to engage in preemption when certain conditions warrant, while recognizing and protecting local authority where appropriate or where directed by Congress or the courts.

Instead of attempting to draw lines for exercising federal preemption, the BDAC should be encouraging the federal government to focus on developing the capacity of local leaders to manage deployments of new technologies in a way that works for their communities in tandem with organizations such as the National League of Cities, the United States Conference of

¹¹ The California Department of Finance, in assessing pre-emptive legislation (SB 649) ultimately vetoed by Governor Brown, noted that “[t]he bill gives telecommunications providers the power to determine where they deploy small cell technologies, which can be highly localized. Providers may cover high demand neighborhoods first, while low income neighborhoods may be left underserved...Under current law cities and counties can require, as part of their permitting process, that small cell providers incorporate rural and lower-income areas into their service networks. By pre-empting local government authority, this bill also limits city and county tools to address those equity issues.”

¹² See *City of McAllen et al. v. The State of Texas*, Cause No. D-1-GN-17-004766, 353rd Judicial District, Travis County, Texas, Plaintiffs’ First Amended Petition and Application For Injunctive Relief (challenging legislation SB 1004 as violating the Texas Constitution); *City of Cleveland v. The State of Ohio*, CV-17-877584, Court of Common Pleas, Cuyahoga County, Ohio, Complaint For Declaratory Judgment and Injunctive Relief (challenging S.B. 331 as violating the Ohio Constitution).

Mayors, the National Association of Counties, and others. The rights of local governments to manage the rights of way must be preserved to benefit the public broadly.

V. CONCLUSION

Although San Jose actively embraces new technology, the rights of local governments to manage the public rights of way must be preserved to benefit the public broadly. There should be more representation of those views on the BDAC and genuine opportunities for informed contributions by all interested stakeholders as the BDAC process moves forward. The process should not be rushed to address deployment of a technology – 5G – for which standards will not be set until 2019.

Cities should have the right to charge “fair and reasonable” market-based rates. The BDAC and the Commission should not impose rigid cost-based formulas in an effort to make one size fit all. Such restrictions would remove the incentives that cities can offer to providers to serve underserved areas.

Finally, federal preemption should be a tool of last resort. It should not be sanctioned by the BDAC or the Commission as a hammer to deprive municipalities of long-standing legitimate authority to manage the public rights of way.

Respectfully submitted,

CITY OF SAN JOSE, CALIFORNIA

**By: /s/ Mayor Sam Liccardo
/s/ Shireen Santosham,
Chief Innovation Officer
/s/ Dolan Beckel,
Smart City Lead
200 E. Santa Clara Street
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(408)-535-4800**

Dated: January 7, 2018

ATTACHMENT 1



November 3, 2017

Mr. Ajit Pai
Chairman, Federal Communications Commission
445 12th Street, SW
Washington, DC 20510

Dear Chairman Pai:

As members of the nonpartisan organizations of the nation's city and county officials, we write to urge you to work more closely with local governments to enhance broadband access and accelerate broadband infrastructure deployment.

In particular, we write to urge you and the agency to more fully consider local perspectives in two Notices of Proposed Rulemaking/Notices of Inquiry titled "Accelerating Wireline/Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment" (WT Docket Nos. 17-79 and WC Docket No. 17-84). We also request you provide for an appropriate level of local government representation on the Broadband Deployment Advisory Committee (BDAC), if this body is to be continued, so that local governments can have more input into both the BDAC's and the Commission's deliberations on matters such as these two rulemakings and other proceedings related to broadband deployment in the future.

Specifically, we write at this time to request that going forward the Commission:

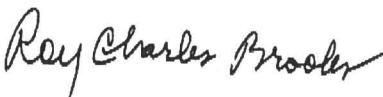
- Protect local authority over rights-of-way, honor our Constitutionally guaranteed protection of fair compensation on the use of public assets, and maintain our Congressionally recognized right to govern the siting of cell towers and small cells in our communities; and
- Address the perception that BDAC is solely interested in pursuing industry goals by making all meetings public, and sharing drafts of all BDAC working documents on the FCC's homepage – in so doing, the Commission and the BDAC would be the beneficiaries of input from a broader group of stakeholders;
- Enhance the scope of the BDAC's mission to consider the broadband industry's responsibility for the broader deployment of wired and wireless broadband services while increasing network quality and lowering the costs to all Americans, including those in rural and low-income areas – today, the BDAC focuses solely on city and state regulations and matters such as pole attachments, missing many other obstacles to broadband deployment, such as broadband industry provider practices and market structure; and
- Provide sufficient time for the BDAC to develop informed opinions that can be shared in interim final reports that are made subject to public review, and guarantee that there is an extended public comment period on materials offered by the BDAC before finalizing any BDAC reports and before the Commission takes any final action in Docket Nos. 17-79 and 17-84.

Chairman Ajit Pai
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By making these changes, the work of the BDAC will be more transparent, data-driven, balanced, forward-looking, and fair. Moreover, because universal access to affordable broadband is so important to our constituents, local elected officials would welcome a BDAC report that outlines the identification of shared challenges and suggested responses for issues such as network-level deployment, design standards, and batch permit processing. We also believe the BDAC would serve the nation well by documenting the need for targeted federal subsidies for building out low-density areas and offering federal grant programs and other resources that allow local governments to replicate successful approaches in other jurisdictions.

Local governments and their elected leaders share your goal of promoting broadband deployment and enhancing access to affordable broadband services. We urge you to work collaboratively and fairly with us in achieving this shared goal.

Respectfully submitted,



Roy Charles Brooks
President
National Association of Counties
Commissioner
Tarrant County, Texas



Matt Zone
President
National League of Cities
Councilmember
Cleveland, Ohio



Mitch Landrieu
President
The U.S. Conference of Mayors
Mayor
New Orleans, Louisiana

Steve Holt
Mayor
Florence, Alabama

Carroll Watson
Mayor
Lincoln, Alabama

David Luna
Vice Mayor
Mesa, Arizona

Greg Stanton
Mayor
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Mayor
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Robert Conger
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James Brainard
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Chris Watts
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David Baker
Mayor
Kenmore, Washington

Amy Walen
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Lacey, Washington

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Lacey, Washington

Bob Champion
Council President
Mukilteo, Washington

Don Gerend
Mayor
Sammamish, Washington

Chris Roberts
Mayor
Shoreline, Washington

Allan Ekberg
Mayor
Tukwila, Washington

Paul R. Soglin
Mayor
Madison, Wisconsin

Richard Kaysen
Executive Director
Wyoming Association of
Municipalities

CC Commissioner Brendan Carr
 Commissioner Mignon Clyburn
 Commissioner Michael O'Rielly
 Commissioner Jessica Rosenworcel

ATTACHMENT 2

Congress of the United States
Washington, DC 20515

November 7, 2017

The Honorable Ajit Pai, Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Pai,

We write to express serious concerns with the Federal Communications Commission's lack of coordination with local governments relating to the Commission's efforts to improve deployment of broadband internet service. We are concerned about local representation on the Broadband Deployment Advisory Committee (BDAC), particularly in the context of the Commission's ongoing wireless and wireline infrastructure proceedings.¹

We believe the BDAC, as it is currently designed, lacks sufficient input from local governments and could result in recommendations that unduly preempt local authority. We therefore urge you to implement reforms to the BDAC to provide local governments with adequate opportunity to offer their perspectives regarding this important matter. We also urge you to enhance transparency by reforming the BDAC's internal procedures and ensure the public has ample opportunity to comment on any BDAC proposals before they are used as the basis or justification for Commission actions.

Broadband internet access is an essential service that American consumers and communities need to compete and fully participate in the 21st century. As Members of Congress who are committed to enacting policies that enhance broadband internet access across the U.S., we were encouraged by your decision in January to form the BDAC to advise the Commission on current regulatory barriers impeding the deployment of broadband.

However, we are concerned that the composition of the 30-member BDAC relies too heavily on the input of industry voices and less on public officials who are responsible for protecting the public interest and who understand the issues and perspectives of local communities nationwide. Speaking directly to these concerns, a recent report by the Center for Public Integrity noted that:

"More than three out of four seats on the BDAC are filled by business-friendly representatives from the biggest wireless and cable companies such as AT&T Inc., Comcast Corp., Sprint Corp., and TDS Telecom. Crown Castle International Corp., the nation's largest wireless

¹ *In the Matter of Accelerating Wireless Broadband Deployment By Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79; *In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Development*, WC Docket No. 17-84.

infrastructure company, and Southern Co., the nation's second-largest utility firm, have representatives on the panel."²

The same report found that of numerous local government representatives that applied to join the BDAC, only one was originally selected to serve on the 30-member committee. While two more local officials were later appointed to the BDAC, this constitutes only ten percent of the voting membership. This imbalanced roster does not adequately represent the broad array of voices whose input is necessary to conduct a reasoned and comprehensive analysis and develop inclusive solutions which can earn acceptance from a broader array of stakeholders.

There is also the problem of the BDAC's lack of transparency and restrictions on public access to the BDAC's working documents. We're concerned that the BDAC will serve as a vehicle to advance laws and policies that serve the needs of industry at the expense of the public interest. This is reflected in the language of the BDAC overview itself, which states the purpose of the Committee is to "eliminate regulatory barriers," - presuming that regulatory protections are an inherent obstruction - other than to examine or address regulatory policy through a more holistic approach. This premise happens to adhere closely to the longtime anti-regulatory efforts of the very interests who make up the overwhelming majority of the BDAC. Taken together, those facts underscore the need for a more transparent process to reassure stakeholders that the final proposals will have resulted from a fair and measured debate.

In order to allow for a fair and balanced perspective of all stakeholders both on and off the BDAC who are committed to accelerating broadband deployment, we call on you to do the following:


- Immediately expand representation of state and local government officials on the BDAC and all five of its working groups;
- Make all meetings, submissions, and drafts of working documents relied upon by the BDAC and its working groups publicly available and accessible to allow for input from a broader group of stakeholders;
- Provide the public with ample time to comment on recommendations and reports adopted by the BDAC before using those materials to inform, justify, or guide Commission action; and
- Refocus the work of the BDAC to create more industry accountability for increasing quality network coverage and lowering costs to all Americans, including in rural and low-income areas, instead of solely focusing on tying the hands of state and local governments.


We believe these reforms are critical to ensuring the BDAC incorporates diverse and balanced input that will ultimately lead to policies that promote the increased deployment of broadband Internet service in a manner that is consistent with the Commission's statutory obligation to serve the public interest. We're concerned that the current composition and operation of the BDAC and aggressive timeline pursued by your office will undermine the legitimacy of any eventual recommendations if the concerns we have raised here are not promptly addressed.

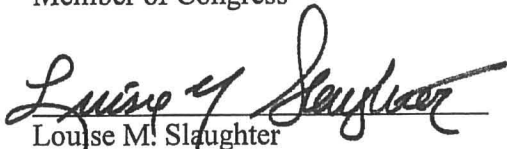
² Blake Dodge, FCC packs broadband advisory group with big telecom firms, trade groups, The Center for Public Integrity (Aug. 11, 2017), <https://www.publicintegrity.org/2017/08/11/21057/fcc-packs-broadband-advisory-group-big-telecom-firms-trade-groups>.

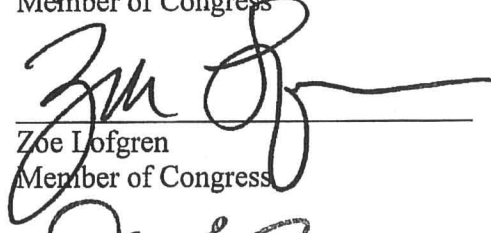
Thank you for your attention to this important request, and we look forward to your timely response.

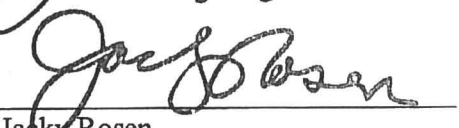
Sincerely,

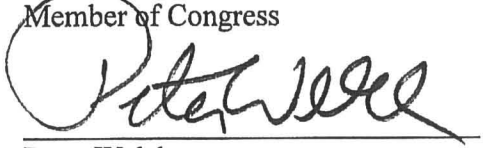

Anna G. Eshoo
Member of Congress

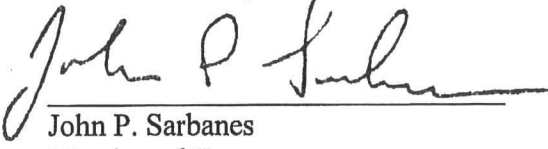

Ro Khanna
Member of Congress



Louise M. Slaughter
Member of Congress

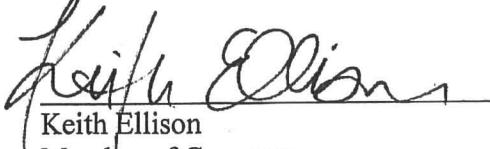

Zoe Lofgren
Member of Congress



Jacky Rosen
Member of Congress

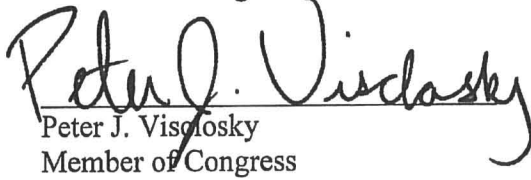

Peter Welch
Member of Congress



John P. Sarbanes
Member of Congress

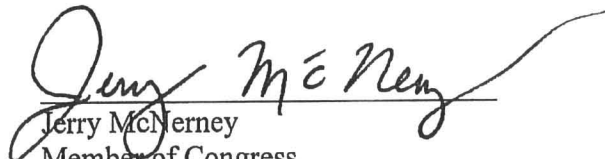

Michael F. Doyle
Member of Congress

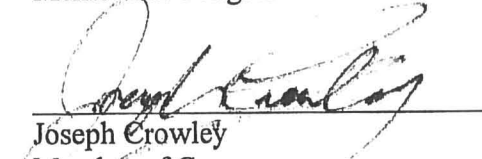

Keith Ellison
Member of Congress


Peter A. DeFazio
Member of Congress


Peter J. Visclosky
Member of Congress


Tony Cardenas
Member of Congress


Jerry McNerney
Member of Congress


Joseph Crowley
Member of Congress

cc: The Honorable Mignon Clyburn, Commissioner, Federal Communications
Commission
The Honorable Michael O'Rielly, Commissioner, Federal Communications
Commission
The Honorable Jessica Rosenworcel, Commissioner, Federal Communications
Commission
The Honorable Brendan Carr, Commissioner, Federal Communications
Commission

ATTACHMENT 3

The New York Times

<https://nyti.ms/2xPW7UU>

Opinion | OP-ED CONTRIBUTOR

Why Does Verizon Care About Telephone Poles?

By SAM LICCARDO OCT. 3, 2017

SAN JOSE, Calif. — Like every other 8-year-old whom I tutored at a local school, Omar didn't know anything — and didn't care much — about high-stakes disputes over net neutrality, free speech and privacy that have consumed much of the news coverage of the telecommunications industry in recent years. Yet the inability of Omar's parents to afford broadband internet access lies at the heart of a battle that will have a far greater impact on his future: the fight over street poles.

Public street poles may not look like much, but to wireless service providers, they're valuable real estate. Companies like Verizon want low-cost access to them to install equipment to handle the rapidly growing demand for mobile data. But poles are owned locally, and cities and counties aren't eager to give away access at below-market rates. Doing so would essentially subsidize an already wealthy industry — nationwide, as much as \$2 billion a year, money that could otherwise go to expanding low-cost broadband access for people like Omar's family.

As a result, the industry is waging a war for those poles, at all levels. Big Telecom and its allies in the White House have quietly carried out a campaign to secure rapid and cheap access to those poles, at taxpayer expense. Here in California, state legislators recently advanced a bill introduced by Senator Ben Hueso that

would allow wireless service providers to install their equipment on public street poles at below-market rates — and to do so nearly wherever and whenever they choose — all in the name of “streamlining” local permit approvals.

We’ve seen similar efforts in Texas, Florida, Washington and dozens of other states, where telecommunications industry lobbyists spent more than \$24.5 million in campaign contributions last year, according to the National Institute on Money in State Politics. At the federal level, Trump administration appointees to the Federal Communications Commission have publicly cheered these proposals, while releasing their own draft regulations to carry out additional industry-friendly rules nationally.

What do our taxpayers get in return for this sweetheart deal? Wireless companies insist that these legislative proposals will reduce costs for consumers, and deliver better-quality cellular voice and data service. Yet, in truth, they do nothing to actually ensure that customers will benefit from a single dollar of the cost savings that the corporate telecoms will pocket.

Moreover, service improvements will benefit only those customers able to afford its service. Despite the windfall that wireless providers receive at taxpayer expense, these industry-backed proposals do not require, or even encourage, the companies to expand broadband access to underserved rural and low-income neighborhoods.

There’s no provision in the California legislation, for example, for broader deployment for low-income neighborhoods. In San Jose alone, over 40 percent of low-income residents lack broadband access. While the industry will respond by pointing to its discounted internet service plans, they remain of such poor quality that students like Omar cannot download their teachers’ video-recorded lesson plans, or a Khan Academy instruction on algebra, particularly when multiple family members are sharing the same account.

In essence, these wireless service providers seek all of the privileges of a regulated water or electric utility — taxpayer-subsidized use of public infrastructure, deployment in locations of their choosing, overrides of the local government’s authority — but without the accompanying responsibility: to serve everyone.

It gets worse. The push by industry and the Trump administration to override local authority to set lease rates will undermine many cities' efforts to expand digital access. That's because San Jose; Tacoma, Wash.; and many other progressive cities seek to use lease revenues from street poles to finance the expansion of low-cost broadband to poorer neighborhoods. Otherwise, the wealthy will receive better service, and the poor will remain shut out.

These proposed regulations also supplant local communities' authority with industry fiat to determine how to deploy telecommunications equipment over public streets, sidewalks and parks. Homeowners surprised by the sight of refrigerator-size equipment installed on poles outside of their windows will have no ability to seek redress from City Hall to change the location or to mitigate the aesthetic impact of these unsightly fixtures. And because signals from these devices can disrupt the operations of others, they can preclude cities from installing public-serving devices — such as gunshot-spotters or traffic safety sensors — on their own street poles.

These are just a few of the reasons a growing number of local elected leaders have opposed the industry's efforts in state legislatures and at the F.C.C. Here in California, the mayors of six of our largest cities — Los Angeles, San Jose, San Francisco, Oakland, Long Beach and Santa Ana — have joined leaders of 150 other cities in opposing California's version of this industry-backed effort.

There is a better way. If the industry wants the same access to taxpayer-funded infrastructure that public utilities enjoy, it should bear the concomitant responsibility to make its services available to everyone in that jurisdiction. Alternatively, if Big Telecom doesn't want the responsibility of deploying broadband in low-income neighborhoods, then the states and the F.C.C. should continue to allow cities to charge market-rate fees and leases to generate municipal dollars needed to broaden access, as San Jose is doing in several low-income neighborhoods.

We should all embrace the opportunity of greater broadband deployment, at better speeds, with the latest technology. Yet how we deploy this technology — and whether families like Omar's' will benefit — matters. If we're going to provide the

telecom industry with unfettered access to public property, then the public's interest must come first.

Sam Liccardo is the mayor of San Jose, Calif., and a member of the Federal Communications Commission's Broadband Development Advisory Committee.

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